

* **HIGH COURT OF DELHI : NEW DELHI**

+ **WP(C) No. 20888/2005**

% Date of decision: August 08, 2007.

N.K. Asthana Petitioner
Through: Mr. Pradeep Kumar, Advocate
versus

UOI & Ors. Respondent
Through: Mr. Rao Vijay Pal, Advocate

CORAM
HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE VIPIN SANGHI

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

A.K. SIKRI, J. (Oral)

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1. Rule D.B.
 2. With the consent of the parties, matter is taken up for final hearing. We have heard learned counsel for the parties at length. Petitioner is working in the Office of Development Commissioner (Handicraft) which is a Department of Ministry of Textiles.
 3. The petitioner was appointed to the post of Junior Field Officer (JFO) Group 'B' (non-gazetted) on 14th July, 1996. At that

time, the Rules which governed his appointment were known as Junior Field Officer Recruitment Rules, 1972 (hereinafter referred to as JFO Rules 1972).

4. There were two categories of Junior Field Officers. Some discharging the duties in the Marketing Wing and other in Carpet Wing. Petitioner was in the Carpet Wing. On 15.2.1978, the respondents issued orders re-designating the post of those who were working in the Carpet Wing as Carpet Training Officers (CTOs) and their pay scale was also fixed at Rs. 550-800. Other officers who were in the Marketing Wing their designation remained as Junior Field Officer. On 4th June, 1979 another order was passed re-designating the post of Junior Field Officer as Handicraft Promotion Officer (HPOs). Thus, the two different designations were given to the officers appointed as Junior Field Officer, namely, CTOs and HPOs.

5. In the year 1979 itself, the President of India also framed separate Rules for the CTOs and HPOs under Article 309 of the Constitution of India. In so far as HPOs are concerned, Rule dated 7th April, 1979 came into effect was published in the gazette dated May 12, 1979 and the Rules in the All India Handicrafts Board (Handicraft Promotion Officers) Recruitment Rules, 1979 were framed, in supersession of All India Handicraft Board(Junior Field Officer) Recruitment Rules, 1972. For CTOs rules which were framed are called All India Handicrafts Board (Carpet Training Officer, Carpet

Weaving Training Centres of All India Handicrafts Board) Recruitment Rule, 1979.

6. As noted above, in case of CTOs, after their re-designation as such vide order dated 15th February, 1978, their pay scale was also fixed at Rs.550-800, since these officers who were appointed as Junior Field Officer before the re-designation were enjoying the pay scale of Rs.550-900. Many of these officers filed O.A. before Central Administrative Tribunal, Principal Bench, New Delhi raising grievance against the reduction in the pay scale. This was allowed by the Principal Bench vide its order dated 4.2.2002 directing the restoration of pay scale of Rs.550-900 to the officers who were appointed before the promulgation of CTO Rules. Some other similarly situated officers filed similar O.A. in Allahabad Bench of the Central Administrative Tribunal and following the judgment of the Principal Bench of Central Administrative Tribunal the said OAs were also allowed by the Allahabad Bench. Writ petition filed against the order before the High Court of Allahabad was also dismissed on 8.11.2002.

7. The effect of the aforesaid judgment was to restore pay scale of CTOs who were originally appointed as Junior Field Officer under JFO Rules 1972 so far so good.

8. The petitioner herein, however, felt aggrieved against the promotion orders dated 27.5.2004 passed in respect of the respondent nos. 5 & 7. By the said order respondent nos. 5 & 7 were

promoted as Assistant Directors (Handicraft). Petitioner states that he was senior to them and said order of promotion in respect of the respondent nos. 5 & 7 be quashed and direction be given to promote him as Assistant Director. With the prayer, the petitioner filed O.A. No. 1731/2004. The Trial Court has rejected this O.A. and in our opinion rightly so.

9. Respondent nos. 5 & 7 were the HPOs. They belong to different cadre. It is obvious that after the re-designation of those JFOs who were working in Carpet Wing Centre as Carpet Training Officer and subsequently those working in Marketing Wing as HPOs and framing of different Rules for both these officers under Article 309 of the Constitution, the cadre of Junior Field Officers was bifurcated into two categories, i.e., HPOs and CTOs. Further promotions of these officers are to be governed by their respective Rules. In fact, the pay scale of CTOs at entry level is Rs.550-800. Since the petitioner was appointed in the scale of Rs. 550-900, the Tribunal in the aforesaid judgment protected the said pay scale. However, all those persons recruited as CTOs as per Rules with effect from 1.9.1979 are placed in the pay scale of Rs.550-800. Therefore, the petitioner cannot make any grievance when officers belonging to HPOs get promotion in their cadre as petitioner belongs to different cadre altogether being CTO.

10. We may also mention that even this aspect has come for

consideration before the Principal Bench in the aforesaid O.A.173/93 decided on 4.2.2002 as well as before the Allahabad bench in **R.P. Mishra's** case. Following observations made in the latter judgment are quoted and extracted by the learned Tribunal in the impugned judgment which would have relevance to determine the question at hand:-

“11. We have considered the submissions of the learned counsel for the parties and perused records. Principal Bench of this Tribunal has already resolved the controversy by its order dated 4.2.2002 in OA No. 173 of 1993. The Principal Bench of this Tribunal in para 5 of the order dated 4.2.2002 has observed as under :-

“In so far as the extension to applicants of the benefits granted to S./Shri Sehgal Suryanarayana and Jana are concerned, they were appointed as JFOs under Marketing Scheme and were later re-designated as Handicrafts Promotion Officers. Respondents in their reply have stated that the JFOs in Marketing Scheme later re-designated as Handicrafts Promotion Officer form a separate cadre from JFOs in Carpet Training Scheme, later designated as Carpet Training Officer. It is also stated by respondents that there is no common seniority list among the two sects of Officers, and the seniority list in respect of CTOs have been held valid by CAT Principal Bench in OA No.275/85 and judgment dated 11.4.1997 in which names of present applicants occupy various places. No cogent materials have been furnished by applicants to rebut the aforesaid averments. Under the circumstances, the applicants cannot claim to be identically placed as S./Shri Sehgal Suryanarayana and Jana and are therefore not entitled to the relief granted

to them.” (emphasis supplied)
11. Even Allahabad High Court, while affirming the aforesaid

view of the Tribunal made the following observations :-

“1. Petitioner and some other were engaged as Junior Field Officer in the year 1973-74. Subsequently this cadre was divided into two separate cadres i.e. Carpet Training Officer (CTO) and Handicraft Promotion Officer (HPO). The promotion in cadre HPO was swifter than the CTO cadre. The petitioner filed an application before the Central Administrative Tribunal claiming parity with them. This application was disposed of on 9.2.1993 with the observation that the respondents may consider the upgradation of the posts. Some adjustments were made however, the cadre of CTO is not similar to that of HPO. The petitioners again filed original application before the Tribunal. This has been dismissed on 16th April, 2002. Hence the present writ petition.

2. We have heard counsel for the petitioner and Sri Shashank Sekhar Singh, counsels for the contesting respondents. Two different cadres have been created in the year 1979 namely CTO and HPO. The person of one cadre cannot claim parity with other. There is no merit on the writ petitioner. It is dismissed.” (emphasis supplied)

12. We are in agreement with the aforesaid view taken by the Allahabad High Court. Consequently, the present petition which is devoid of any merit is hereby dismissed.

A.K.SIKRI, J.

VIPIN SANGHI, J.

August 08, 2007
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